

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**ST. LUKES UNITED METHODIST  
CHURCH**

*Plaintiff,*

v.

**CHURCH MUTUAL INSURANCE  
COMPANY**

*Defendants.*

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**CIVIL ACTION NO. 2:20-cv-00053**

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**DEFENDANT CHURCH MUTUAL INSURANCE  
COMPANY'S NOTICE OF REMOVAL**

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TO THE HONORABLE JUDGE:

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, **CHURCH MUTUAL INSURANCE COMPANY** ("Church Mutual") files this Notice of Removal to the United States District Court for the Southern District of Texas, Corpus Christi Division, and respectfully shows the following:

**I.  
SUMMARY OF REMOVAL**

1. Church Mutual removes this matter from the 214th Judicial District Court of Nueces County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division. Church Mutual has met all of the requirements of 28 U.S.C. § 1441, as there is complete diversity between Plaintiff, **ST. LUKES UNITED METHODIST CHURCH** (hereinafter, sometimes "St. Lukes" or "Plaintiff"), a citizen of the State of Texas, and Church Mutual, a citizen of the State of Wisconsin. The amount in controversy in this action exceeds \$ 75,000.00.

**II.**  
**REMOVAL EXHIBITS**

2. In support of its Notice of Removal, Church Mutual attaches the following exhibits, and incorporates the same herein by reference:

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|-----------|--|
| Exhibit A | Civil Cover Sheet & Supplemental Civil Cover Sheet   |
| Exhibit B | Civil Case Entry Sheet of the 214 <sup>th</sup> Judicial District Court of Nueces County for Cause No. 2020DCV-0407-F; |
| Exhibit C | Plaintiff's Original Petition (1/30/2020);   |
| Exhibit D | Citation and Service on Church Mutual Insurance Company  |
| Exhibit E | Defendant Church Mutual Insurance Company's Original Answer (2/17/2020)  |
| Exhibit F | Disclosure Statement Pursuant to FED. R. CIV. P. 7.1.  |
| Exhibit G | List of All Counsel of Record.   |

**III.**  
**PROCEDURAL BACKGROUND**

3. On January 30, 2020, Plaintiff commenced this civil action by filing Plaintiff's Original Petition in the 214th Judicial District Court of Nueces County, Texas as Cause No. 2020DCV-0407-F; *St. Lukes Lutheran Church v. Church Mutual Insurance Company* ("State Court Suit").<sup>1</sup>

4. In its petition, St. Lukes seeks damages related to a claim under a property-insurance policy issued by Church Mutual in effect when St. Lukes' property was allegedly damaged by Hurricane Harvey in August, 2017.<sup>2</sup> Plaintiff's petition makes numerous allegations against Church Mutual including causes of action for breach of contract, violations of Texas

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1 ----- *See*, Ex. C.

2 ----- *See*, Ex. C., Pltf's Orig. Pet., p. 2-3.

Insurance Code and Prompt Payment Act, and breach of the duty of good faith and fair dealing.<sup>3</sup> Plaintiff also seeks “declaratory relief” in the form of a declaration that the applicable insurance policy provides coverage for the cost to repair Plaintiff’s damaged property and personal property, or alternatively that the policy is “ambiguous” and “must be interpreted in favor of coverage.”<sup>4</sup>

5. Pursuant to 28 U.S.C. § 1441, Church Mutual now removes this case to federal court.

#### **IV.** **ARGUMENT AND AUTHORITIES**

##### **A. Legal standard for Removal**

6. A defendant has the right to remove a case to federal court when federal jurisdiction exists and the removal procedure is properly followed.<sup>5</sup> To determine whether removal jurisdiction exists, the claims in the state court petition are considered as they exist at the time of removal.<sup>6</sup> Doubts about the propriety of removal are to be resolved in favor of remand.<sup>7</sup>

##### **B. This Court has jurisdiction pursuant to 28 U.S.C. § 1332.**

7. Federal district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000 (exclusive of interest and costs) and is between citizens of different states.<sup>8</sup> If federal jurisdiction is based on diversity of citizenship under 28

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3 ----- See, Ex. C., Plt’f’s Orig. Pet. pp. 6–7.

4 ----- See, Ex. C., Plt’f’s Orig. Pet. pp. 3.

5 ----- See, *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002) (citing 28 U.S.C. § 1441).

6 ----- *Manguno*, 276 F.3d at 723.

7 ----- See, *In re Hot-Hed, Inc.*, 477 F.3d 320, 323 (5th Cir. 2007) (per curiam).

8 ----- 28 U.S.C. § 1332(a)(1).

U.S.C. § 1332, a case is removable when none of the parties in interest properly joined as defendants is a citizen of the State in which the action is brought.<sup>9</sup>

***There is complete diversity between the parties.***

8. St. Lukes is a non-profit corporation incorporated in the State of Texas with its principal place of business in Corpus Christi, Nueces County, Texas. Church Mutual is a corporation duly organized under the laws of the State of Wisconsin, which maintains its principal business offices in Merrill, Lincoln County, Wisconsin. Accordingly, there is completely diversity of citizenship between St. Lukes and Church Mutual.

***The amount in controversy exceeds \$75,000.00.***

9. St. Lukes's petition expressly states that it "seeks monetary relief over \$ 1,000,000.00."<sup>10</sup> St. Lukes also seeks additional damages above that amount for purported violations of the Texas Insurance Code's Unfair Settlement Practices and Prompt Payment of Claims provisions. Therefore, the matter in controversy clearly exceeds the sum or value of \$ 75,000.00 (exclusive of interest, costs, and attorney fees), satisfying the requirements of 28 U.S.C. § 1332(a); this case is therefore subject to removal pursuant to 28 U.S.C. §§ 1441 and 1446.

**C. All requirements for removal have been met and removal to this Court is proper.**

10. In accordance with 28 U.S.C. § 1446(b)(1), a defendant timely files its notice of removal within 30 days after receiving a copy of the initial pleading. Church Mutual was served on February 10, 2020<sup>11</sup> and timely appeared and answered in the state court action on February

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9 ----- 28 U.S.C. § 1441(b).

10 --- See, Ex. C., Pltff's Orig. Pet. p. 2.

11 --- See, Ex. D.

17, 2020.<sup>12</sup> Removal is therefore timely as this Notice of Removal was filed within the time limits required.

11. The United States District Court for the Southern District of Texas, Corpus Christi Division is the proper court in which to remove this action because this civil action is pending in this district and division. 28 U.S.C. § 1446(a).

12. In accordance with the provisions of 28 U.S.C. § 1446(d), Church Mutual is serving written notice upon counsel for St. Lukes and is filing a copy of this Notice of Removal with the District Clerk of Nueces County, Texas.

**V.**  
**JURY DEMAND**

13. Pursuant to FED. R. CIV. P. 38(b), Church Mutual hereby serves on Plaintiff this written demand for a jury trial. By inclusion in this Notice of Removal, Church Mutual's jury demand satisfies FED. R. CIV. P. 5(d).

**VI.**  
**CONCLUSION**

**WHEREFORE**, Defendant **CHURCH MUTUAL INSURANCE COMPANY** files its Notice that the above-entitled action is removed from the 214th Judicial District Court of Nueces County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division and Defendant requests that this Court take jurisdiction of the case through to final judgment in accordance with the laws of the United States.

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<sup>12</sup> --- See, Ex. E.

Respectfully submitted,


By:   
MARC A. SHEINESS (Attorney-in-Charge)  
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*Attorneys for Defendant,*  
**CHURCH MUTUAL INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this instrument has been served on all counsel of record by e-filing, certified mail – return receipt requested, regular mail or hand delivery on this 21st day of February 2020.

Matthew R. Pearson  
Mary Ann Notestine  
PEARSON LEGAL PC  
425 Soledad, Suite 600  
San Antonio, Texas 78205  
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MARC A. SHEINESS

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**INDEX OF MATERIALS FILED WITH NOTICE OF REMOVAL**

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